THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on :26.09.2007

+ **OMP 118/2007**

CITI FINANCIAL CONSUMER FINANCE INDIA LTD. ...**PETITIONER**

- versus -

MAHESH CHAND MATHUR & ANR. ... **RESPONDENTS**.

Advocates who appeared in this case:

For the Petitioner : Ms Meenu Nanda

For the Respondents : None.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. This is an application for interim injunction under Section 9 of the Arbitration and Conciliation Act, 1996. The notices issued to the respondents by virtue of an order dated 1.5.2007 have been served on the respondents. Nobody appears on behalf of the respondents.

2. As per the application the respondents had approached the petitioner for grant of a loan. An agreement had been entered

into between the petitioner and the respondents on 30.5.2005. The amount of the loan was to the extent of Rs 37,00,000/-. The said amount was advanced and disbursed on 30.5.2005 and was to be repaid by the respondents in 164 equated monthly instalments of Rs 43,568/-. As security for the loan, the respondents mortgaged the property No. B-111, Saraswati Marg, Bajaj Nagar, Jaipur, by creating an equitable mortgage in favour of the petitioner. The original Title Deed was handed over to the petitioner. Disputes have arisen between the parties and the said agreement contains an arbitration clause. The venue of the arbitration is Delhi and the arbitration is to be conducted by a sole arbitrator to be appointed by the petitioner. By a notice dated 17.10.2006 the petitioner informed the respondents of its intention to refer the matter to Mr S.K. Jain, Advocate for arbitration.

3. As stated in the petition, the petitioner has a strong apprehension that the mortgaged property, which is the only security with the petitioner, is likely to be disposed of by the respondents. Since the statements made in the petition have been

uncontroverted due to the absence of the respondents despite the service of notice on them, the said statements have to be taken as correct.

4. Accordingly, this petition is disposed of with the direction that the respondents, their agents, assigns are restrained from selling, disposing off, transferring, alienating or creating any third party interest in property No. B-111, Saraswati Marg, Bajaj Nagar, Jaipur in any manner whatsoever till the disposal of the arbitration proceedings.

BADAR DURREZ AHMED
(JUDGE)

September 26, 2007
J